

REMARKS

Claims 1-4, 7, 9-10, 12-19 and 22-32 are pending in the application.

Claims 1-4, 7, 9-10, 12-19 and 22-32 are rejected.

Claims 3, 18 and 19 are amended.

Reconsideration and allowance of claims 1-4, 7, 9-10, 12-19 and 22-32 is respectfully requested in view of the following:

Responses to Rejections to Claims – 35 U.S.C. §103

Claims 1-4, 7, 9-10, 12-19 and 22-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jalili (U.S. Patent No. 6,088,683) (Jalili) in view of Musa (U.S. Patent No. 6,016,349) (Musa). This rejection is not applicable to the amended claims.

Independent claim 1 recites: "...transmitting the identification code of the merchant station and the identification code associated with the SIM card from the mobile cell phone to the comparing device..."

Independent claim 3 recites: "...wirelessly reading into the merchant station the identification code of a SIM card of a mobile cell phone..."

Independent claim 18 recites: "...the comparing device further comprises...control devices, which...on making a connection from a mobile cell phone receives the identification code of the SIM card and the identification code of the merchant station..."

Independent claim 19 recites: "...the merchant station comprises...a device for wirelessly receiving the identification code characterizing the SIM card, the comparing device further comprising...control devices, which after the merchant station makes a connection to the comparing device and transmits transaction data from a merchant station to the comparing device, checks...the authorization of the SIM card for the method received wirelessly by the merchant station..."

As the PTO recognizes in MPEP §2142:

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the Examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

The USPTO clearly cannot establish a *prima facie* case of obviousness in connection with the amended claims for the following reasons:

35 U.S.C. §103(a) provides that:

[a] patent may not be obtained...if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.... (emphasis added)

Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated. However, the references, alone, or in any combination, do not teach transmitting or receiving the identification code of the merchant station and the identification code of the SIM card from the mobile cell phone to the comparing device, as recited by independent claims 1 and 18, nor do they teach wirelessly reading into the merchant station the identification code of the SIM card, as recited by independent claims 3 and 19.

Jalili discloses a method for secure purchase transactions using a telephone with the following steps:

1. The customer registers one or more credit cards with a processing center, and that registration may include a customer name and phone number.
2. The customer selects goods from a merchant and provides the merchant with the customer name and phone number.
3. The merchant generates a purchase number for the transaction involving the goods selected by the customer.
4. The merchant delivers the purchase number and a merchant number on an invoice to the processing center. The invoice may include the customer name, phone number, good purchased, prices of goods purchased, etc.
5. The customer may contact the processing center using a phone or modem and the customer may be identified by CallerID or prompted for further identifying information OR the processing center may contact the customer.
6. The customer confirms the transaction with the processing center upon being contacted.
7. The processing center sends confirmation of the transaction to the customer.
8. The processing center debits the customer credit card and credits the merchant.

Musa discloses a cellular phone and an audio smart card that includes encrypted personal information. In operation, the user of the phone may call a bank and the bank may request an identification code. The user of the phone then inserts the audio smart card into the phone and the encrypted personal information is sent to the bank and used to verify the identity of the user.

The Office Action states that transmitting the identification code of the merchant station and the identification code of the SIM card from the mobile cell phone to the comparing device is disclosed by Jalili at col. 2, lines 29-39. Col. 2, lines 29-39 recites "In step 2, the merchant then delivers a purchase number together with a merchant number to the processing center, by E-mail, phone, or another means, for example on an invoice addressed to the processing center. The invoice may have a stated lifetime which may be supplied by the merchant or by the customer's information registered with the processing center. The invoice may include the buyer's registered name (not necessarily his real name), a telephone number, the merchant's name and identification number, a list of items being purchased together with the price of each, a total price, an expiration time, or optional attachments for the merchant's use."

Col. 2 lines 29-39 of Jalili disclose a merchant submitting to the processing center the merchant number and the purchase number on an invoice that may include the buyer's telephone number. However, independent claims 1 and 18 recite "...transmitting by a merchant station, the identification code of the merchant station and at least the amount of money to the comparing device..." as well as "...transmitting the identification code of the merchant station and the identification code associated with the SIM card from the mobile cell phone to the comparing device..." and then "...comparing the merchant station identification code transmitted from the mobile cell phone with those of the open transactions stored in the transaction memory device..." Jalili discloses no identification codes for the merchant or the customer transmitted from the mobile cell phone. In Jalili, the merchant delivers all the information (the purchase number and the merchant number on an invoice that may include the customer name and phone number to the processing center (see item 4 above)). The only use of the mobile cell phone in Jalili is the customer contacting the merchant, or the merchant contacting the customer, through the mobile cell phone to confirm the transaction (see item 5 above). Musa discloses nothing to remedy these deficiencies as Musa doesn't disclose sending an identification code for a merchant. As such, it is submitted that independent claims 1 and 18 are not disclosed by the cited prior art.

Furthermore, independent claims 3 and 19 each recite "...wirelessly reading into the merchant station the identification code of a SIM card..." In Jalili, the telephone number of the customer is provided by the customer to the merchant (see item 2 above), but there is no disclosure of a merchant station that wirelessly reads the telephone number of the customer, much less an identification code of a SIM card. Musa discloses nothing to remedy these

deficiencies as Musa doesn't disclose sending anything to a merchant station wirelessly. As such it is submitted that independent claims 3 and 19 are not disclosed by the cited prior art.

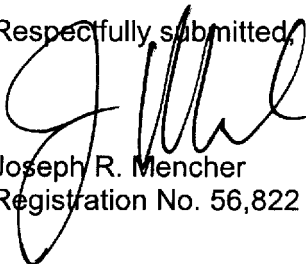
Therefore, it is impossible to render the subject matter of the claims as a whole obvious based on a single reference or any combination of the references, and the above explicit terms of the statute cannot be met. As a result, the USPTO's burden of factually supporting a *prima facie* case of obviousness clearly cannot be met with respect to the claims, and a rejection under 35 U.S.C. §103(a) is not applicable.

Therefore, independent claims 1, 3, 18 and 19 and their respective dependent claims are submitted to be allowable and, as such, the allowance of claims 1-4, 7, 9-10, 12-19 and 22-32 is respectfully requested.

The amended claims are supported by the original application.

The Examiner is invited to call the undersigned at the below-listed telephone number if a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,



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